

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 98-0167P**

**Withholding Tax  
Calendar Year 1994**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-6; IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer protests the penalty assessed for the failure to remit additional withholding tax credited on the president's W-2. Taxpayer's CPA, by fax, advised the taxpayer to remit the additional tax, however, the taxpayer inadvertently failed to remit the tax as instructed by the CPA.

I. **Tax Administration** – Penalty

**DISCUSSION**

At issue is whether the taxpayer was negligent in timely remitting tax due.

An audit completed on December 23, 1997 found that \$11,000 in state tax was never remitted to the department.

Taxpayer states that the bonus paid at the end of the year for the president of the corporation did not go through the normal payroll system because the program would not handle it. The payments, were, therefore, not calculated in the payroll system and more manual adjustments were necessary. Taxpayer further states that the federal income tax and the Social Security tax was paid immediately while it was on everybody's minds and the state and county withholding was not due until the end of January.

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During January of 1994, the person who prepares the WH-1 form had a tragic death in the family and the adjustment to the WH-1 just got missed.

The taxpayer might have meant that during January of 1995 a death in the preparer's family occurred. Taxpayer did not remit the tax due until audit discovered that the taxpayer failed to remit monies due.

### **FINDING**

Taxpayer's protest is denied.